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Hunting for a Witch to Burn: The University of Utah and James E. P. Toman

by

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A Plan-B paper proposal submitted in partial fulfillment
of the requirements for the degree

of

MASTER OF SCIENCE

in

History

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Logan, Utah

2015

The University of California (UC) and its notorious 1949 loyalty oath scandal may be the most popular and widely discussed case study of post-WWII political repression within American universities, but it was not the first casualty. That "honor" goes to the University of Washington (UW) in 1946, a year before President Truman enacted Executive Order 9835 requiring federal employees to sign oaths of loyalty to the US Constitution. That year, Washington became one of the first states to create its own internal fact-finding committee on un-American activities. And, among this committee's first targets for rooting out Communists, fellow-travelers, socialists, or any other unsavory subversive types was the University. University president Raymond B. Allen supported and facilitated the witch hunt on his campus in every way possible. In a menacing, albeit possibly intending to be helpful gesture, before the committee arrived on campus, Allen warned Communist faculty members to leave their positions immediately, to quit their careers, before they were smoked out.¹ Ultimately, eleven tenured professors were called before the state's committee to defend themselves. "Professional witnesses," often disenfranchised ex-Party members looking to clear their names, were called in to offer slanderous testimony against the accused. Among them was Whittaker Chambers, a former spy for the Soviet Union, who came to Washington to offer expert testimony on what was considered to be the intellectually-crippling nature of Communism. In 1949, after years of struggling to protect their names via their constitutional rights and the tenets of academic freedom, three professors were deemed unfit to teach and fired: Joseph Butterworth, Ralph Gundlach, and Herbert Phillips.

¹ Ellen Schrecker, *No Ivory Tower: McCarthyism & the Universities* (New York: Oxford University Press, 1986), 94.

Shortly after he was fired from UW, students at the University of California, Los Angeles (UCLA), invited Herbert Phillips to speak at their campus. As Bob Blauner points out in his 2009 book *Resisting McCarthyism: To Sign or Not to Sign California's Loyalty Oath*, an outstanding complement to David Gardner's seminal 1967 book *The California Loyalty Oath*, this was one of three events that led UC President Robert Sproul to call for an amendment to the already-existing faculty-wide loyalty oath. The two other events were the "loss of China" to Communism, which, according to Blauner, amplified fears of subversion in the United States, and the invitation of Harold Laski, a British Labour Party member and avowed socialist, to speak at UCLA on labor unions. While the school's Left-leaning provost, Clarence Dykstra, approved Phillips' speaking engagement, Dean of Students Milton Hahn opposed it, based on the reasoning that "no recognized student organization" requested Phillips to come.² Unless an academic department, or at the very least an approved student organization (one Hahn approved of) made the request, Hahn argued the event should be canceled.³ In the end, Phillips went to UCLA and participated in a debate with an audience limited to graduate students.

To the UC's Board of Regents, the threat Communism and its subversive rhetoric posed to the youth of the United States crystallized when two radical speakers, one an avowed Communist recently terminated from a tenured academic position, and the other a Labour Party member, socialist, and union supporter, were given the opportunity to use campus facilities to address and hold discussions with students. The Board's now-

² Bob Blauner, *Resisting McCarthyism: To Sign or Not to Sign California's Loyalty Oath* (Stanford: Stanford University Press, 2009), 58-59.

³ Milton E. Hahn to Clarence A. Dykstra, February 14, 1949, The California Oath Digital Collection, <http://content.cdlib.org/view?docId=hb1x0nb4wc&brand=lo&chunk.id=meta>, accessed March 28, 2015.

infamous reaction was to amend an already-existing constitutional loyalty oath previously adopted with little resistance in 1942. The amendment stated: "I am not a member of the Communist Party, or under any oath, or a party to any agreement, or under any commitment that is in conflict with my obligations under this oath." Of course, the wording was intentionally ambiguous so as to allow state, federal, and university investigative committees ample room to find obscure violations. The board, however, did not inform the faculty of the amendment, let alone seek out their approval. It was simply attached to their contracts for the coming year. Those who did not sign would have no teaching position. Undoubtedly, the amended oath was a direct violation of academic freedom and constitutional rights, but it was actually the failure to uphold the rights of shared governance that truly infuriated many faculty members. And it was this misjudgment that led not only to a standoff between "non-signers" and the board, but also to universities across the nation assessing their position on loyalty oaths, if they needed one, and how they should be implemented. In the end, on August 25, 1950, thirty-one professors who had refused to sign the oath were fired from the University. In October the following year, California's Supreme Court ordered the University to reinstate the non-signers.

Historians have discussed the UC's 1949-1950 loyalty oath controversy in great length, most notably David P. Gardner in his book *The California Oath Controversy*, and Ellen Schrecker in her seminal work *No Ivory Tower: McCarthyism & the Universities*. This essay, however, uses the UC scandal as a backdrop to the University of Utah's (U of U) own controversy concerning an alleged Communist professor. Admittedly, my

decision to use the UC scandal this way is born more from necessity than creativity: across the nation, university administrations, regents, and faculty members followed the events as they unfolded in California. Many universities adopted oaths that mimicked California's, with little or no protest from the faculty. While the U of U held off from immediately implementing oaths, regent minutes reveal that they, too, had California on their mind. As will be shown, the regents decided to include the faculty in discussions concerning the implementation of an oath, a decision that stemmed directly from their recognition of what caused so much mayhem at Berkeley. But the board's inclusion of the faculty does not reflect a strong determination to uphold tenets of academic freedom. It is tempting to identify the regents' concern for faculty involvement as an act to preserve shared governance, but in actuality, the university showed little interest in upholding professors' rights and protections.⁴ The board only respected rights of shared governance and faculty participation so as to charge the Faculty Council with policing themselves and drafting their own statement supportive of the state and federal constitution in a show of good faith. Shared governance and faculty involvement did nothing, however, to prevent a suspected Communist from being red-baited and forced out of the University,

⁴ Loyalty oaths and tests have a long history of implementation in the United States, dating back to the country's origins when James I made those setting off for Jamestown sign a loyalty oath to the English crown, and still continue into the modern day. Concerning loyalty oaths of the post-WW2 era of political repression, President Truman's 1947 Executive Order 9835 required government employees to sign loyalty affidavits. Soon after, private corporations commonly adopted similar oaths, forcing many of the country's general workforce to "prove" their loyalty to the US Constitution. The University of California was the first university of this era to require its faculty members to sign a loyalty oath, but others quickly followed its lead. Oaths in the university typically followed two formats: 1), affirming one's loyalty to their state and country's constitution, and 2), a promise they were not members of subversive organizations. The former had been a part of the UC contract since 1942, and caused only minor grumblings among faculty members. The latter, though, started a controversy that ended in the firing, and later reinstatement, of thirty-one UC professors. (Ellen Schrecker, *No Ivory Tower: McCarthyism & the Universities* (New York: Oxford University Press, 1986), 4-5, 116-117.) For an overview of the history of loyalty oaths in the United States up until 1959, see Harold M. Hyman, *To Try Men's Souls: Loyalty Tests in American History* (Berkeley: University of California Press, 1959).

despite the Faculty Council's contrary recommendations. What I aim to show in this essay is how the U of U, and specifically its president A. Ray Olpin, when faced with the threat of a communist presence on their campus, did little to protect shared governance and tenure protections, two key tenets of academic freedom.

My research was originally focused on finding empirical evidence that during the same period Berkeley was embroiled in controversy over the UC's new oath requirement, president A. Ray Olpin promised his faculty that he would resign before allowing something similar to happen at the U of U. This is the claim Sterling McMurrin makes in the book *Matters of Conscience: Conversations with Sterling M. McMurrin on Philosophy, Education, and Religion*. When asked the question "I've heard you say over the years that you know of no institution that defends academic freedom more fully than the University of Utah. Why do you say that?", Distinguished Professor of philosophy Sterling McMurrin, gave this answer:

Yes, the University of Utah has genuine intellectual freedom. It's partly because there has always been a powerful interest group, the Mormon church, right on the university's doorstep. [University of Utah President Albert Ray Olpin] used to tell me in the 1950s of complaints from Mormon officials -- and others, of course, -- about what professor so-and-so was saying in the classroom, what questionable plays were performed by the theater, and so on. Without exception, Olpin was a stalwart defender of the freedom of his faculty. He was almost bullheaded about it. And, for the most part, the faculty exercised its academic freedom responsibly -- speaking and writing honestly without malice toward local institutions and interests.

The interviewer, L. Jackson Newell, Professor of Higher Education at the University, encouraged McMurrin to elaborate: "I'm sure you've got an example or two in mind." McMurrin responds,

One such event occurred in 1949, or possibly 1950. There was a great deal of concern over the loyalty oath that California initiated, a concern which was spreading across the country. There was some agitation in Utah for requiring loyalty oaths from university

professors. The faculty met at Kingsbury Hall to discuss the matter and President Olpin said very firmly, "There will be no loyalty oaths in this university while I am president," and that settled that. Thereafter loyalty oaths were a dead issue at the university and, generally, in the Utah community. I would occasionally run into people -- who were not Utahns, incidentally -- who would ask, "When are you going to get rid of those communists in the university?" I said, "I don't know that we have any communists." Well, as a matter of fact, we did have at least one card-carrying communist at the Medical School; *but he wasn't thrown out. At the end of the year he simply left.*⁵

In fairness, Professor McMurrin was correct on more than one point: Olpin was a staunch defender of the university's autonomy who resisted outside influence not just from the Mormon church, but from the state's government, as well. Also, loyalty oaths, which peppered much of the nation in 1949, were not legislatively initiated in Utah. Utah was one of twenty-two states that did not require teachers to sign oaths affirming their loyalty to the state's and nation's constitutions, and one of fifteen which had neither an oath requirement or legislation aimed at removing "disloyal" teachers.⁶ But McMurrin's other points concerning president Olpin's "bullheadedness" towards defending academic freedom, his stalwart position against loyalty oaths in the university, and the supposed meeting in Kingsbury Hall when Olpin vowed to resign before seeing oaths at the U of U simply do not match the historical record. In actuality, Olpin and several other U of U regents engaged in an incredulous campaign of red-baiting a respected scholar out of the university, while at the same time, and perhaps not so subtly, insisting the rest of the faculty provide a sign of good faith that they were fervent supporters of the state and federal constitutions.

⁵ Sterling M. McMurrin and L. Jackson Newell, *Matters of Conscience: Conversations with Sterling M. McMurrin on Philosophy, Education, and Religion* (Salt Lake City: Signature Books, 1996), 174-175. Emphasis mine.

⁶ E. Edmund Reutter, *The School Administrator and Subversive Activities: A Study of the Administration of Restraints on Alleged Subversive Activities of Public School Personnel* (New York: Bureau of Publications, Teachers College, Columbia University, 1951), 66.

The June 13, 1949, Board of Regents meeting covered an array of important, yet typical and somewhat bland topics: "Federal Legislation on Housing;" "Campus Building Plans;" "Dr. R.V. Chamberlin Engaged for Half Time." The minutes also show that the United States Public Health Service recently approved the erection of a cancer research facility at the U of U's campus. At this time, and arguably still today, the university's School of Medicine was its crown jewel. President Olpin worked hard to attract talented scholars and researchers in various fields of medicine from across the country, and succeeded time and again. Beyond the cancer research facility news, the minutes also show the regents discussed a recent letter sent from Representative John Wood, Chairman of the House of Representatives Committee on Un-American Activities (HUAC), to President Olpin. The letter requested "lists of textbooks, with names of authors," from every department related to social sciences, including history, political science, philosophy, literature, economics, and geography.⁷ According to the minutes, a discussion on "Un-American" activities in Utah's schools and universities followed. It was then agreed that the Board "must determine a guiding policy with reference to this whole matter as early as possible and not wait until some specific case arises. Aware of the controversy taking form in California, in determining such a policy the opinion was expressed that it would be very wise to have the faculty participate."⁸

Members of local press outlets attended the regents' meeting that evening, and shortly after the discussion on HUAC's request, an unknown person questioned the Board

⁷ John S. Wood to A. Ray Olpin, June 9, 1949, box 44, folder 10, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

⁸ Minutes of the Board of Regents of the University of Utah, January 1, 1949 - June 31, 1949, Marriot Library, Salt Lake City.

on the "likelihood of there being Communists on the University faculty." Olpin responded that there was one person suspected of being Communist who would gain tenure if his contract was renewed for another year. The Board, then realizing there was no policy in place concerning employing "persons suspected of belonging to subversive organizations," suggested that a qualifying statement be included in the suspect's contract, informing him that "employment for the ensuing year would not provide tenure." It read: "Since you do not attain tenure until December, 1949, your tenure status will be open for discussion before it comes effective at that time."⁹ The motion to include this clause on the suspect's contract carried. That evening, the *Deseret News* ran an article titled "Olpin Hints Teacher at 'U' Is Commie."¹⁰

The suspected subversive was professor of physiology Dr. James E. P. Toman. Toman came from a working-class family, his father a mill worker. He attained his Ph. D. in biology from Princeton, and, by all accounts, was a brilliant scientist and talented researcher whose primary focus was finding a cure for epileptic seizures. During his time at the U of U, he and three other medical scientists secured over 217 grants for the School of Medicine, for a total of just over two million dollars.¹¹ He was also, according to a 1945 article in the *Salt Lake Telegram*, a member of the Communist Party (CP). The article identifies Toman as: "instructor, University of Utah medical school." It also identifies Dr. Mark Nickerson, "research expert at the medical school," as a CP member. Nickerson and Toman were close friends, and Nickerson too became the subject of a red-hunt a few years later. While a tenured professor at the University of Michigan in 1954,

⁹ Ibid.

¹⁰ "Olpin Hints Teacher at 'U' Is Commie," *Deseret News*, June 13, 1949.

¹¹ "Four Utah Medics Get Research Grants," *Deseret News*, August 9, 1949.

Nickerson, Chandler Davis, and Clement Markert were suspended for invoking their constitutional rights before HUAC. Nickerson was later fired. In actuality, Nickerson had left the Party by 1945, for the same reason many intellectuals had: his professional work did not allow the time required for Party membership.¹² It is unclear if Toman was truly a member of the CP or not at this time, or at any time for that matter, but it is clear that in July 1949, president Olpin believed Toman was the new Chairman of the Progressive Party of Utah.¹³ At a public hearing on rent decontrol in June 1949, Toman discussed the economic plight of the newly married, those with large families, and racial minorities.¹⁴ Toman's concern for racial minorities alone could easily have been identified as communistic sympathies during this period.¹⁵ Even more damningly, during a period of labor unrest at the University, at least one person identified Toman as "largely responsible" for helping workers attain a forty-hour work week.¹⁶ Therefore, strong evidence exists which may help prove why the U of U Board of Regents targeted Toman: his recent history with political agitating, mixed with HUAC's recent inquiry into the school's curriculum, seems to have made him a perfect scapegoat to prove the university would not tolerate communists in its ranks. Toman stood out from his colleagues, even those who were like-minded, like Nickerson. He was a squeaky wheel, so to speak. And,

¹² Schrecker, *No Ivory Tower*, 60.

¹³ Progressive Party of Utah to University of Utah Board of regents, July 3, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

¹⁴ George Gilbert to President Olpin, June 24, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

¹⁵ Reynold Humphries, *Hollywood's Blacklist: A Political and Cultural History* (Edinburgh: Edinburgh University Press, 2010), 11-12.

¹⁶ Mr. Hansen to President Olpin, October 20, 1949, box 63, folder 3, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

as Ellen Schrecker has stated repeatedly throughout her scholarship, the squeaky wheels got the grease.

The Board sent Toman his contract on June 23, 1949. In the first draft, the contract included this additional stipulation: "Due notice of employer's right to terminate contract relations at the end of this year is hereby acknowledged." On a separate sheet of paper, president Olpin offered Toman an alternate wording of the stipulation, "Since you do not attain tenure until December, your tenure will be open for discussion before it becomes effective at that time." Toman crossed out the first and opted for the alternate. The contract was sent back to the Board on June 29. Toman also included a note declaring he signed the contract under protest, and requested that his contract "and all relevant material be reviewed before December 1949 by the Faculty Council Committee on Academic Freedom and Tenure." Toman believed the reason for the "extraordinary stipulation" added to his contract was due to his presumed political beliefs, as well as his "participation in the political life of the community."¹⁷ He argued the stipulation violated provision 75-1-14 (in actuality, it violated provision 75-1-4) of the Utah Annotated Code 1943: "No political or religious test shall be required or partiality or preference shown in the appointment of professors, instructors, assistants, teachers, officers, or employees."¹⁸

Besides sending his contract to the Board, Toman also sent Olpin a personal letter on June 29. In it, he alludes to a telling conversation the two had on June 23, in which Olpin assured Toman that his academic competence was *not* in question. This is an

¹⁷ Contract for James E. P. Toman, June 1, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

¹⁸ Utah Annotated Code 1943, Title 75, Chapter 1, Section 4, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

important point to recognize, but of course, it was also standard operating procedure. An accused professor's intellectual competence was never questioned by investigative committees or university administrations, lest they be expected to show specifically how one's political affiliation tainted one's intellectual expertise. Rather than academic competence, Olpin informed him that the question was over Toman's "participation in the political life of the community," which Olpin had apparently received complaints about from trade union officials, who also accused Toman of being Communist. Olpin told Toman in this conversation that these complaints were "a source of embarrassment to the University." Olpin responded to Toman's personal letter the following day, June 30, and cautioned Toman against speaking with others about the qualifying statement in his contract, as the University would not be able to protect his reputation.¹⁹ Based on the support for Toman soon to flood Olpin's desk, it is assumed did not heed the president's advice.

Respecting Toman's request to have the Faculty Council investigate the accusations against him, the Board of Regents charged the university's Faculty Council Committee on Academic Freedom and Tenure (hereafter referred to as FCAFT) with two tasks: 1), "the desirability of a public statement on behalf of the University community of its position with respect to the rights and responsibilities of its members as citizens," and 2), "the case of Assistant Professor James Toman."²⁰ Minutes from the August 1, 1949, Faculty Council meeting more clearly reveals what the Board intended the FCAFT

¹⁹ President Olpin to James E. P. Toman, June 30, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

²⁰ Minutes from Faculty Council Committee on Academic Freedom and Tenure meeting, August 17, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

accomplish with its first task. If the faculty could agree on a public statement of policy regarding Communists in the University, "it might forestall the imposition of a loyalty oath."²¹ This statement, just over a page in length, went through several edits. But on October 6, 1949, after the faculty approved its contents, the FCAFT submitted its final version to the Board for approval. It extolled the "freedom of thought and inquiry, opportunity for presentation of all points of view, and persuasion by reason without coercion" that the constitutional system of the United States "has as its foundation." It spoke of the university as "one of society's best agencies for thought, inquiry, and discovery." And it described the teacher "as a citizen," who "should not be expected to surrender his liberty or give up his right either to participate in public life or to assist in the formulation of public opinion." The statement ends with a final proclamation: "As faculty members of the University of Utah we oppose any ideology that would suppress freedom of thought and expression, we support the Constitution of the United States and the Constitution of the State of Utah, and we adhere to those principles which insure democratic government and safeguard its best interests of the University."²²

It is tempting to identify this statement as a *loyalty oath*, and one which falls somewhere in between a standard constitutional oath (the kind UC faculty members were required to sign in 1942, and did so with little fuss), and the more severe type that swears no affiliation with groups or organizations intent on the violent overthrow of the democratic United States (such as the UC's 1949 notorious addition to the 1942 oath).

²¹ Minutes from Faculty Council meeting, August 1, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

²² Report of the Committee on Academic Freedom and Tenure as Approved by the Faculty Council, October 6, 1949, box 63, folder 3, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

According to the August 17, 1949, FCAFT minutes, Olpin deplored any and all publicity concerning the "alleged Communist" among the University faculty. Wanting to stave off interference by any type of outside body, namely HUAC, that might investigate the University more deeply than a simple book request, Olpin tasked the Faculty Council with writing and agreeing upon a "public academic profession of faith based upon the American constitutional principle of freedom."²³ The committee then discussed the effectiveness such a statement would have if the entire faculty signed, as well as whether the statement should be incorporated into the Faculty Regulations or attached to faculty contracts (as had been done at UC). A month later, during the October 17, 1949 Board of Regents meeting, the board identified the statement as "a part of the Faculty Code, which is the faculty rules and regulations." Olpin said the statement was not a governing principle, but then immediately labeled it a "guide or *principles* of how the academic interests of the University are handled." The board then moved to adopt the statement as its own policy, "a statement of principles upon which tenure at the University on the part of the faculty members shall be permitted and carried."²⁴ This innocuous sounding "statement," or "public profession of faith," or "guide or principles," resembles a university-implemented rather than state-legislated oath, but an oath nonetheless.

The entire University faculty was, if not supportive of the statement, at least aware of it. It is therefore baffling that Sterling McMurrin, a U of U faculty member since 1948, not only apparently forgot about the faculty-wide recognition of the

²³ Minutes from Faculty Council Committee on Academic Freedom and Tenure meeting, August 17, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

²⁴ Minutes from Special Meeting -- Executive Session, University of Utah Board of Regents, October 17, 1949, box 63, folder 3, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

statement's oath, but also concocted an event in which President Olpin stood in front of the entire faculty in Kingsbury Hall and promised them no oath would come to the university. However, more important than McMurrin's alternative historical narrative is the language of the statement. In light of the fact that a scholar was in the middle of being dismissed for taking too active a role in local political matters, was being forced to "give up his right either to participate in public life or to assist in the formulation of public opinion," the statement is entirely hollow and downright troubling.

Despite the meaningless credo they wrote and endorsed, the FCAFT was not entirely incapable of understanding that, with the Toman case, the basic principles of academic freedom were clearly being violated. In a September 8, 1949 letter to the Board, the FCAFT found no reason not to keep Toman as a member of the faculty, which in turn meant granting him tenure. The Board had argued that Toman currently was, or at some point had been, Chairman of the Progressive Party in Utah; that earlier, he had involved himself in the cases of Joseph Curtis and Roy Tremayne, two Utah high school teachers fired for reasons similar to what caused Toman's troubles; and that he may be a member of the Communist Party. The committee relied on the rights outlined in the AAUP's 1940 Statement on Academic Freedom and Tenure to show not only that Toman deserved tenure, but that terminating him would violate several guidelines. The Board, the letter stated, had the right to terminate anyone who had not attained tenure, but, if the case should go public, the nature of the reasons "might become a vital concern to the faculty and public." The FCAFT realized quickly, and rightly, that the Board had no conclusive evidence of their accusations; in fact, months earlier, Olpin admitted as such.

In a document titled "Discussion Regarding Letter Sent to Members of the Faculty Council regarding Contract and Tenure of Dr. James E. P. Toman," dated July 5, 1949, president Olpin stated, "In talking with [Toman], we felt that no formal accusation be made, but a great deal of talk and gossip is going around. [Toman] should clear himself. We called his attention to the fact that a great deal of talk was going on."²⁵ Moreover, the committee pointed out that the AAUP's 1940 statement grants probationary-period teachers the same rights of academic freedom as tenured faculty members.²⁶ This meant that Toman should not be denied tenure due to his participation in controversial extramural political activities. The minutes from FCAFT meetings reveal that regent members continuously tried to keep doubts about Toman alive, despite the majority of the Faculty Council seeing no wrong in his actions or supposed affiliations.

The FCAFT was not the only entity who defended Toman. Olpin's presidential records contain a wide array of letters of support for the scholar, the vast majority of which are from his colleagues at the University's School of Medicine. In fact, except for one from the United Public Workers of America, which accuses Olpin of discriminating against union members, every personal letter sent in support of Toman is from a School of Medicine colleague;²⁷ there are none from a concerned faculty member of a different school or department. But, that is not to say nobody from outside the School of Medicine thought he was being unfairly punished. In fact, minutes taken from FCAFT and Board

²⁵ "Discussion Regarding Letter Sent to Members of the Faculty Council regarding Contract and Tenure of Dr. James E. P. Toman," July 5, 1949, box 63, folder 2, Albert Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

²⁶ "Academic Tenure," *Academic Freedom and Tenure: A Handbook of the American Association of University Professors*, ed. Louis Joughin (Madison: University of Wisconsin Press, 1969), 36.

²⁷ Orville E. Danforth to President Olpin, October 27, 1949, box 63, folder 3, Ray Olpin Presidential Records, 1911-1979, Marriott Library, Salt Lake City.

of Regents meetings make it very clear he had support from many professors throughout various fields of study. After all, violations of academic freedom affect all, and easily cut through any type of intellectual divisions or scholarly rivalries between departments. But, regardless of the support he was shown in the aforementioned meetings, there remains a distinct lack of *public* support for Toman's academic freedom and/or disdain for the Board's actions. This is a puzzling phenomenon, given that the University had approximately seven-hundred professors at this time and yet not one wrote Olpin in disagreement, while at the same time, numerous members from the School of Medicine voiced their concerns in writing.²⁸ Potential reasons for the lack of vocal support from members of other departments will be explored later in this essay.

The support for Toman that came from the School of Medicine's faculty typically touched on a series of major themes: 1), Toman was a brilliant researcher and scientist, and losing him would "represent a serious blow to the medical school's research program;"²⁹ 2), the Board's treatment of Toman, based on "no formal charges" but "rumour (*sic*) and innuendo," raises questions that concern every faculty member;³⁰ and 3), nothing in the faculty code prevents a university professor from participating in extracurricular events that concern the community at large.³¹ Even Mark Nickerson, at the time an associate professor of pharmacology at the University who was later red-

²⁸ Minutes from Special Meeting -- Executive Session, University of Utah Board of Regents, October 17, 1949, box 63, folder 3, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

²⁹ Robert S. Ely, M.D., Erwin D. Goldenberg, M.D., Robert R. Martelle, M.D., Jack L. Paradise, M.D., et al, to President Olpin, July 9, 1949, box 63, folder 2, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

³⁰ Emil L. Smith to President Olpin, July 8, 1949, box 63, folder 2, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

³¹ Louis S. Goodman to President Olpin, July 7, 1949, box 63, folder 2, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

baited at the University of Michigan, and who had previously *been* a member of the CP and was identified as a Communist in the same 1945 article that accused Toman, wrote president Olpin a letter in disagreement with the Board's actions.³² Clearly, not everyone who had reason to hide their past involvement with what were considered subversive groups and activities "kept their heads down" and kept silent.

Despite the School of Medicine's appeals made on behalf of Toman's skills as a researcher, scientist, and teacher, the Board continuously moved forward with its intentions to dismiss him from the University. Minutes from the Board's weekly meetings show that only one regent, George S. Ballif, argued what was happening to Toman was not just unfair, but a violation of his constitutional rights. And, in a special meeting of the Board on October 17, 1949, it became clear not just that Ballif was Toman's only advocate among the regents, but that Olpin was willing to go to extreme lengths to rid the University of him.

On this day, Olpin reveals to the Board that new developments have come to light that he thought should be "on the table" when they consider whether to grant tenure to or dismiss Toman. According to Olpin, a night watchman for the School of Medicine, "one of our best night watchmen" who "should be commended for his frankness," was concerned to see people "working at all hours of the night." Olpin was "so shocked" when he heard the watchman's reports that he "demanded the Superintendent of Buildings and Grounds" to send the watchman's reports to his office on a weekly basis, or immediately if "highly irregular." Olpin suggested to the Board that two letters, sent

³² Mark Nickerson to President Olpin, July 10, 1949, box 63, folder 2, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

from the watchman, be read, and if desirable, he could be called in to speak in front of them, in case they had questions. Regent Ballif immediately countered, asking if Olpin's intentions were to charge Toman in absentia, based on the watchman's report. Olpin replied he was only reporting what happened. Ballif again countered, insisting Toman should be allowed "under our usual democratic procedure, an opportunity to appear and confront his witnesses and receive the charge against him in a good old American democratic way." Olpin shot back, "Well you can call him (assumedly Mr. Hansen, the night watchman) if you wish, but you be the judge. I'm not." Then, perhaps exasperated either by the heated exchange or the continuing talks on Toman, or both, Regent Roy Cox, without yet hearing Olpin's evidence, moved to terminate Toman's employment effective December 1, 1949. Reed Culp seconded the motion. Cox, clarifying his position towards Toman, added "Without giving any reason or bringing him in." At this point, Regent Romney and Browning, possibly before supporting Cox's movement or in an effort to be as prudent as possible in their decision, insisted on hearing Olpin's evidence against Toman. Olpin proceeded.³³

According to Mr. Hansen's report, Toman and a "Miss Henry" had been seen leaving the Medical School together on a regular basis around five-thirty in the morning. Offering hearsay evidence to buttress his accusation, Olpin told the other regents "Now we all know, of course, the relationship between the two is more than professional." According to Hansen, while many others work late at night, Toman was a suspicious character because he frequently came in around midnight and stayed until the early

³³ Minutes from Special Meeting -- Executive Session, University of Utah Board of Regents, October 17, 1949, box 63, folder 3, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

morning, which no other staff member did. Olpin, who had apparently personally interviewed the night watchman, asked Hansen what they did (Toman and Miss Henry) while they were there, to which Hansen replied "It is my understanding they were working on papers." Bizarrely, Olpin asks Hansen at this point, "What kind of papers?", to which Hansen replies truthfully, "I don't know what kind of papers. I assume it is about their work."

Offering up more damning evidence, Olpin then discusses another report from a night watchman (it is not known if this report, too, came from Mr. Hansen) that has Toman and Miss Henry conversing in a room with an open door from 8-9:00 P.M. Later, at 11:30 P.M., Toman was seen alone, writing in the same room, when a man came in. At 1:00 A.M., Toman was seen conversing with another woman the night watchman had not previously seen before. It is at this point this deluge of pointless minutia becomes interesting, but more for Olpin's actions than Toman's. According to the report, the woman seen conversing with Toman left the Medical School at 1:55 A.M., "in a grey Nash sedan. The license on the car was Utah H-2944. The woman was driving the car, which apparently belonged to her. Of course we have that (assumedly the license and registration information) -- a strange woman being brought in at 1:30 or 2:00 o'clock in the morning into the building and we made an effort to find out whose car it was." The car, the report continues, was registered to a man with an FBI record.

The watchman's findings carry on with similar inconclusive and perplexing information, that arguably incriminates Olpin and the Buildings and Grounds Department far more than Toman or Miss Henry. At the end, Olpin makes his final proclamation,

that Toman's actions, coming into work late at night, talking to strange women and men, were "shocking." Based on nothing but unsubstantiated hearsay evidence, he accuses Toman of having an unprofessional romantic relationship with his secretary, Miss Henry, who was in fact Toman's research assistant. Regent Culp, who earlier seconded the motion to dismiss Toman on December 1, 1949, reminds Chairman Sterling Sill that a motion has been seconded. "I think we all have our minds made up," he added. At this moment, Ballif asks for the floor, but Olpin interrupts him, asking if Ballif wants "this fellow" to report or not. It is not entirely clear who Olpin meant by "this fellow," but he assumedly meant the night watchman, who had been issuing reports and Olpin had earlier offered to bring in to address the Board directly. Culp, however, misinterprets Olpin, thinking he is referring to Toman, and responds "Mr. Chairman, I don't want [Toman] in here. I don't want to see him or know him." Ballif, now granted the floor, argued that the Faculty Council had cleared Toman of any wrongdoing, and yet the Board continued to fight "this supposed communist with totalitarian methods." Regardless of his arguments, based on his experience as a professor of law, a motion to terminate Toman's contract on December 1, 1949 carried. Regent Bennion then moved that everything except the motion to not renew Toman's contract be stricken from the record, to which Ballif vehemently objected. Olpin opposed the motion, confident his stance would handle any scrutiny. The motion dissolved in a heated exchange between regents Bennion, Browning, Ballif, and president Olpin. The meeting concluded thereafter.³⁴ Toman sent his resignation letter to the Board on November 18, 1949. Unlike many other academics

³⁴ Ibid.

fired for their assumed political affiliations during this period, he had relatively little trouble finding a new position at the Chicago School of Medicine.

The Board's discussions on and actions towards Toman reveal a disturbing lack of concern for his constitutional rights, predominantly his First Amendment right to free speech. Of course, such violations are numerous throughout American universities (and the country) during this period, and indeed are what define the McCarthy era as one of the United States' many missteps when it comes to upholding constitutional protections during, and despite, times of fear, confusion, and ignorance.

While the Board's actions are troubling, they are arguably not as shocking as the faculty's refusal to take a public stand against the egregious violations of academic freedom and civil liberties. This distinct lack of faculty outcry highlights an important issue regarding their failure to protect their colleagues', and their own, rights. While there is no shortage of hypotheses that could be drawn from a wide body of scholarship on Cold War culture to address this issue, I found it imperative to investigate the role religious doctrine in 1950s Utah might have played in keeping the faculty silent.

In his popular book *The Culture of the Cold War*, American Studies scholar Stephen Whitfield describes the important role Christian evangelism played in convincing a significant portion of the United States' citizenry that a nuclear apocalypse could be avoided with ample love for God and country, and voting Republican. Billy Graham stood out among the rest, easily recognizable as the most prominent Cold War evangelizer. As Whitfield points out, Graham's rhetoric "was neither otherworldly nor apolitical." That is, his sermons were related to the political and cultural concerns facing

1950s Americans, not biblical scripture focused on getting accepted into heaven. His Sunday sermons regularly warned the parishioners of communism and linked religious revival to helping prevent it. At times, entire sermons were devoted to the "death-duel" between Christian America and the atheistic Soviet Union.³⁵ Linking communist sympathies to a form of demonic possession, Graham called communism a 'satanic religion,' capable of turning Americans into traitors and turning their backs on everything America had provided for them.³⁶ Truly, perhaps nobody was better at convincing, or terrifying, already-scared Americans into believing Christian convictions could prevent Soviet espionage and nuclear war. While technically a registered Democrat, Graham was anything but. He criticized "pseudo-liberals" and their weak foreign policies; he supported Senator McCarthy's demand that those brought before HUAC not be allowed to invoke the Fifth Amendment; and he opposed any "government restrictions" that might prevent "freedom of opportunity."³⁷ For Graham, Christianity and capitalism were not polar opposites, but natural bedfellows.

But Graham's evangelism was not the only Christian denomination that found a natural enemy in communism. Catholicism, too, labeled communism godless and atheistic, and considered Bolshevism an enemy the Church was locked in mortal combat with.³⁸ And, more importantly to this essay's focus, during the era of McCarthyism the Church of Jesus Christ of Latter-day Saints (LDS), although somewhat socialistic in its

³⁵ Stephen Whitfield, *The Culture of the Cold War* (Baltimore: Johns Hopkins University Press, 1996), 79-80.

³⁶ Ibid, 80.

³⁷ Ibid.

³⁸ Ellen Schrecker, *Many Are the Crimes: McCarthyism in America* (Princeton: Princeton University Press, 1998), 72-73.

roots, was a staunch opponent of communism. David O. McKay, for example, a General Authority in 1949 and appointed Church president in 1951, was a devout anticommunist who spread his views far and wide throughout the Church. In 1936, while many intellectuals were joining the Popular Front (PF) movement in opposition to fascism in Europe, McKay joined with Church president Heber J. Grant in issuing a public denouncement of communism. To support communism, they argued, "is treasonable to our free institutions, and no patriotic American may become either a communist or supporter of communism."³⁹ When the United States entered World War II, McKay's anticommunist rhetoric shifted to accommodate the nation's new enemies. Importantly, in the Church's first general conference following the attack on Pearl Harbor, McKay decried war in principle, but found a single condition that allowed for an individual to fight in war on behalf of a righteous nation. McKay argued, "To deprive an intelligent human being of his free agency is to commit the crime of the ages. So fundamental in man's eternal progress is his inherent right to choose, that the Lord would defend it even at the price of war." In fact, in post-WWII America, it was commonly asserted that what Communism had in common with Germany's fascism and Japan's totalitarianism was the deprivation of God's gift of free agency.⁴⁰ Not surprisingly, that an individual might use his/her free agency to support socialist political policies, or even communist overthrow, was apparently not considered a viable manner in which to use the gift. Inconsistencies aside, McKay and other figureheads provided Mormons the same vehicle for anticommunist fear and paranoia that Graham provided his flock. "[Communists] are

³⁹ Gregory A. Prince, "The Red Peril, the Candy Maker, and the Apostle: David O McKay's Confrontation with Communism," *Dialogue* 37, no. 2 (Summer 2004), 37-39.

⁴⁰ *Ibid*, 39.

anti-Christ. They want to destroy Christianity. There is only one way to meet them and that is by force, the only thing they understand."⁴¹ In addition, during the Church's scurrilous campaign to oust Senator Elbert Thomas in the 1950 election, Church writers linked capitalism to free agency, elevating the model of economics to a moral plane. In a series of muckraking efforts, Thomas was made to represent atheistic socialism, while Wallace Bennet, a capitalist, represented "faith and freedom."⁴² Communism, socialism, and liberalism of any sort were linked to anti-American, anti-democratic values that put the United States in danger. But how much were U of U professors, scholars assumedly devoted to objectivity and reasonability, inspired by religious rhetoric?

On May 31, 1949, Dean of Faculty Jacob Geerling sent president Olpin a series of documents cataloging the religious affiliation of university employees, arranged and tallied via department. The subject heading of the packet reads "Off-campus status of faculty." Unfortunately, no information on who ordered the report, nor its overall or general purpose, is known. Nevertheless, while not definitive, it provides an interesting layer of context that may help answer questions about the significance of religious organizations and their influence on anticommunist ideologies. Despite this glaring lack of context, the list shows a stark contrast in the ratio of Christian faculty members and those who chose "No preference." The first page is an overview of the report that lists eight categories: Deans, Department Heads, Professors, Associate Professors, Assistant Professors, Instructors, Lecturers, and Coaches. According to the tabulations, seventy-four of these staff members were Protestant, two hundred and twenty-one were "LDS or

⁴¹ Ibid, 41.

⁴² Frank Jonas, "The Mormon Church and Political Dynamiting in the 1950 Election in Utah," *Proceeding of the Utah Academy of Sciences, Arts, and Letters* 40, no. 1 (1963), 97.

Utah graduates," and fourteen were "No preference." Even if this report does not include responses from every faculty member, it still serves as a quantitative representation of LDS and religious faculty to non-religious. Moreover, it is disturbingly similar to HUAC's request for a list of textbooks used by the social science departments. In essence, the "Off-campus status of faculty" list represents an inquisitive, and perhaps overly invasive, administrative body keeping tabs on extremely personal information of its faculty that may help define their political affiliations.

It appears at the time of the Toman situation, the vast majority of U of U faculty members were Christian. Whether this Christian majority led to a lack of support for Toman remains unknown. But it is clear that during the 1950 elections the LDS church played a significant role in ousting the popular Democratic Senator Elbert Thomas on charges based solely on rumor and innuendo, very similar to charges leveled against Toman. Granted, the entire faculty at the U of U was not religious. After all, at least fourteen people identified themselves as "No Preference," leaving the possibility of at least a few seculars. In fact, Toman was a positivist, although Olpin's report identifies no "No Preferences" among professors of physiology and pharmacology.⁴³ And, as stated previously, there is no way of knowing conclusively if church doctrine, or the rhetoric of a spiritual leader, prevented the faculty from defending Toman, who was labeled a

⁴³ Mark Nickerson, "Dedication to James E. P. Toman," in *Chemical Modulation of Brain Function -- A Tribute to J. E. P. Toman*, eds. Hector C. Sabelli et al (New York: Raven Press, 1973), 9.

communist. However, arguably it would be intellectually irresponsible to assert religion had no impact whatsoever.⁴⁴

Other than the possibility of religious convictions playing a far larger part in faculty silence than in other, more secular, schools, the U of U is not unique in its lack of faculty outcry. At universities across the nation, in schools with likely far larger percentages of non-religious faculty, not to mention current and former CP, Popular Front, Progressive Party, and labor and union members/supporters, scholars habitually failed to support their colleagues accused of subversion. There are several reasons why.

Ellen Schrecker identifies one previously touched upon reason as standing out as a "squeaky wheel." Many scholars, like Toman, across the nation spent their spare time fighting for social justice issues. Ralph Gundlach, one of the professors fired from the University of Washington in 1947, was a political activist and a member of more Leftist organizations than any other person on the school's Seattle campus. For this reason, plus a feisty attitude, Gundlach stood out from his peers; he was a squeaky wheel.⁴⁵ Chandler Davis, a squeaky wheel at the University of Michigan, was fired from the university in 1954 and spent six months in prison for refusing to answer questions before HUAC, on the grounds they violated his First Amendment rights.⁴⁶ Mark Nickerson was fired alongside Davis, although he invoked his Fifth Amendment rights and did not spend time in prison. These scholars and many others squeaky wheels were fired for refusing to

⁴⁴ "Off-campus Status of Faculty," May 31, 1949, box 48, folder 9, Ray Olpin Presidential Records, 1911-1979, Marriot Library, Salt Lake City.

⁴⁵ Ellen Schrecker, "Subversives, Squeaky Wheels, and 'Special Obligations': Threats to Academic Freedom, 1890-1960," *Social Research: An International Quarterly* 76, no. 2 (Summer, 2009), 513.

⁴⁶ Schrecker, *No Ivory Tower*, 219-220.

cooperate with HUAC and/or their university's investigative committee, for being "unfriendly witnesses," and for not naming names and participating in the witch hunts. With firings occurring across the country, despite protections of tenure, it is not surprising many scholars failed to speak out against the injustices and bring negative attention their way. Many realized standing out and speaking up, or squeaking, brought a lot more trouble than it prevented wrongful accusations and terminations.

For other scholars failing to speak out against mistreatment was not a matter of keeping a low profile. They were anticommunists who truly believed communism was either a threat to Western ideals, a morally bankrupt system of government, or both. Many professors within American universities were conservative, although not necessarily Republican; to them, communism was democracy's natural enemy. Others were former CP or PF members who, for one reason or another, became disillusioned with communism. After breaking from the Party, some, like Lionel Trilling and Granville Hicks, remained liberal, or at least non-Right. But they formed strong anticommunist sentiments based on what they considered to be the inside truth about communism. Others, like Whittaker Chambers, moved from the far Left to the extreme Right for similar reasons. Both Trilling and Chambers, and numerous others, became disillusioned with what Russia had become after the revolution, a victim of Stalin's political repression, purges, and gulags. Trilling wrote: "the revolutionary heroes -- and they were certainly that -- were disgusting. Russia was disgusting. Perhaps every revolution must betray itself." Chambers and everybody he knew were "confused and

dejected."⁴⁷ To these anticommunists, anyone who either stayed in the Party after learning of Stalin's atrocities, or refused to take as ardent an anticommunist stance as they had, were non-critical automatons, unfit to think for themselves, and surely unfit to teach America's youth.

Despite labeling scholars unfit to teach, HUAC and university investigative committees rarely, if ever, accused a professor they suspected of being communist that his political affiliations had poisoned his intellectual integrity. This is evident in the Toman case at the U of U. From the very onset, the Board made it clear Toman's "academic qualifications and research contributions" were not in doubt. Likewise, the University of Michigan treated Davis, Nickerson, and Markert similarly in 1954. The school's Special Advisory Committee assured each scholar that the "technical proficiency in [their] respective fields" was not in doubt. Instead, what concerned the University was each man's "integrity." Anticommunists saw communism as a conspiracy, whose members were under the complete control of the Party.⁴⁸ Accordingly, went the rationale, communist professors may well still excel in their field of study; Toman was no less a physiologist as a communist, for example. But when faced with a decision to make, or perhaps when fielding a question from a student that required a critical analysis of Party doctrine, in a Durkheimian fashion of mechanical solidarity they would invariably defend and spout the Party rhetoric over a reasonable and objective approach. Of course, no case studies or evidence of such behaviors ever existed. In fact, it could be argued that in a rather automaton-like and uncritical manner, it was HUAC and the

⁴⁷ Michael Kimmage, *The Conservative Turn: Lionel Trilling, Whittaker Chambers, and the Lessons of Anti-Communism* (Cambridge: Harvard University Press, 2009), 81-85.

⁴⁸ Schrecker, *No Ivory Tower*, 225.

university investigative committees that persecuted scholars they only suspected of being Communist, based largely on speculative and hearsay evidence that would have been thrown out in a courtroom.

The McCarthy era was, for all intents and purposes, conservatives picking up where they had left off when World War II interrupted their persistent assault against Communists, Leftists, unions, striking laborers, and other agitators. Convincing the American citizenry that the secretive, hostile, and aggressively expansionist Soviet Union was spying on the United States and turning its citizens into treasonous Reds did not take much effort. After helping to defeat fascism in Europe, the United States, itching to continue saving the world from antidemocratic regimes, found a perfect target in the aggressively expansionist Soviet Union. The resulting perceived domestic threat Communist sympathizers posed to the democratic fabric of the nation became the primary concern for millions of Americans. And, just as scholars failed to stand up against HUAC in the university, Democratic Americans failed to unite and stand against the unconstitutional methods used by HUAC to flush out and persecute suspected Communists. As Ellen Schrecker points out, on a large scale, Democratic leaders simply did not have the nerve to publicly identify the tactics as undemocratic, unconstitutional, and un-American. Republicans could too easily fire back with charges that Democrats were soft on Communism. Democrats, "to defend themselves against charges that they were soft on Communists, flaunted their own anticommunism."⁴⁹ Tragically, the Republicans' hostile approach to purging Communists from state and federal institutions,

⁴⁹ Ellen Schrecker, *The Age of McCarthyism: A Brief History with Documents* (Boston: Bedford/St. Martin's, 2002), 98-99.

universities, and throughout the private sector was genuinely supported by "cold war liberals," but went largely uncontested by various Democrats and leftists who opposed the methods and purpose, but felt powerless to oppose them.

The Democratic Party did not unite in opposition against the unconstitutional ways suspected Communists were hunted in the United States. Similarly, scholars and intellectuals within American institutions of higher learning also failed to band together in solidarity against egregious violations of academic freedom. In fact, many university members were complicit with the McCarthy era's injustices, whether liberal or conservative, Republican or Democrat. Their failure to defend their colleagues forfeited untold amounts of intellectual progress in the process and allowed the institution to be fundamentally altered. Paul Lazarsfeld's and Wagner Thielens, Jr.'s, exhaustively researched work *The Academic Mind* reveals the many ways the university changed dramatically. Professors felt more pressure to drop "controversial" classes; at least half of the interviewed social science professors felt a decline in intellectual and academic freedom; at public universities, faculty reported increased pressure from politicians as new investigative committees were created and unleashed on the university.⁵⁰ Many of the men and women who toiled for years to become intellectuals and scholars, dedicated to objectivity, critical thought, and the scientific method, ignored and defied their roles as educators and purveyors of truth. Instead of standing unified on their intellectual foundations and defiant against unconstitutional methods of repression, many caved and said nothing when their colleagues were accused of activities that could, and too often

⁵⁰ Paul F. Lazarsfeld and Wagner Thielens, Jr., *The Academic Mind: A Report of the Bureau of Applied Social Research, Columbia University* (Glencoe, Illinois: The Free Press, 1959), 39-41.

did, cost them their careers. Instead of working collectively to identify and protest how McCarthyism violated one's rights, scholars by and large granted legitimacy to the antidemocratic processes that sometimes destroyed their colleagues' careers. At the University of Michigan, instead of championing and defending Davis, Nickerson, and Markert for invoking their constitutional rights before HUAC, the university's Special Advisory Committee persecuted and fired two of them. And at the University of Utah, instead of furiously demanding an outstanding colleague not be dismissed for charges stemming from gossip and rumors, the Faculty Council penned an oath and recognized the Board's right to do with Toman what they wished. Again, as the preeminent Cold War historian Ellen Schrecker states, "The academy did not fight McCarthyism. It contributed to it."⁵¹

President Olpin was not opposed to having the University's faculty sign a loyalty oath, and saying as much, in light of the historical record, is a simple misrepresentation of the man's stance on oaths and whether they represented to him, in any way, a violation of academic freedom. Olpin is quoted as saying, "Whenever you bring in a real scholar," which he, without question, worked to fill his university with, "there's bound to be someone unhappy with his views." But, as Olpin knew, "real scholars" (and any scholar, for that matter) needed to know the University would allow them "to utilize their talents as free-thinking individuals."⁵² Unfortunately, Olpin's actions against Toman show a distinct lack of conviction for upholding such views. He made these statements in 1947, and yet two years later, he quickly turned on an agitator, a proponent of workers' rights

⁵¹ Schrecker, *No Ivory Tower*, 341.

⁵² Anne Palmer Peterson, *Years of Promise: The University of Utah's A. Ray Olpin Era, 1946-1964* (Salt Lake City: University of Utah Press, 2009), 26.

and rent control, of equal rights for people of color. He sank deeper in his wrongful determination to rid the school of Toman when he found fault with Toman working late nights with his research assistant. Incidentally, when Clement Markert was accused of being a CP member at Michigan, the excessive amounts of time he spent conducting research was used in his favor, not against him. Olpin rightly deserves credit for helping to build the University of Utah into what it is today, but his record for actually upholding the rights of academic freedom and protections of tenure of one of his most talented scholars, when given the opportunity to do so, is dismal. Olpin, like so many other acquiescent scholars and intellectuals of the McCarthy era, closely followed the status quo.

The legacy of the McCarthy era at the U of U fits similarly into the historical record as the liberal legacy does: closely following the status quo. As was the case on most other campuses, the U of U's only contact with HUAC was comparatively minor to the Universities of California, Wisconsin, Michigan, and select others. HUAC's request for a list of books used in various social science departments was sent without controversy. There was no collective faculty outburst at the thought of being forced to sign a loyalty oath, which the regents' minutes show was in consideration, nor at the board's request the faculty author and sign the more innocuous sounding public statement of good faith to the state and federal constitutions. A step in the right direction, the Faculty Council recommended Toman not be fired as no evidence whatsoever showed he was guilty of moral turpitude or any other offense, but they also recognized the Board of Regents as an essence of absolute authority who could do with him as they pleased. The

entire university faculty, save for a significant portion from the School of Medicine, stayed silent on oaths, on statements, and on the engineered dismissal of an extremely talented colleague. But their behavior is indicative of the overall response scholars across the nation had to Communist witch hunts. Patriotic fervor and an obsession with stamping out atheistic and dogmatic Communism from the institution, based on shaky and wildly ironic reasoning that Communists were incapable of reasonability, trumped protecting academic freedom. Arguably, the McCarthy era was a bleak period for the United States, one of considerable fear and uncertainty towards an aggressive enemy and its domestic influence. Unfortunately, instead of combating the exploitation of fears, universities -- and the scholars that defined them -- largely endorsed anticommunist paranoia. Some schools did so on a grand scale that affected a national response. Others, like the U of U, did so quietly, making few ripples in the national anticommunist current, but adding to the swell of anti-American political repression nonetheless.

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